

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed April 6, 2006. At the time of the Office Action, Claims 1-19 were pending in this Application. Claims 1-19 were rejected. Claims 1-9, 11, 12, 14, and 15 have been amended to further define various features of Applicants' invention. Claim 13 has been cancelled without prejudice or disclaimer. Claims 20 and 21 have been added. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102(b)

Claims 1-19 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,506,898 issued to Ralph J. Costantini, et al. ("Costantini").

With respect to the rejection of independent claim 1, Applicants have made broadening amendments deleting various claim elements, but have also amended the claim to recite that the wait time audio indicator comprises an audible signal having a time varying parameter in which a value of the parameter indicates the remaining wait time. Applicants submit that claim 1 as amended is not anticipated by the cited reference because Costantini does not teach either expressly or inherently implementing a wait time audio indicator as an audible signal having a time varying parameter, where the parameter is indicative of the remaining wait time.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The Office Action indicates that the originally presented claims, including claims such as claims 7, 8, and 9 reciting that the audio indicator is an audio signal that changes in pitch, tone, or amplitude during the progress of the wait, were anticipated by Costantini because the announcements made to a caller under Costantini are (presumably) different every time.

However, amended claim 1 recites a time varying parameter of the audible signal that is itself indicative of the remaining wait time. Costantini is almost exclusively concerned with the details of determining the expected wait time as opposed to the manner of conveying the expected wait time to a caller. Thus, for example, whereas amended claim 1 encompasses an application in which the pitch, tone, or volume of the audible signal conveys the remaining wait time to the caller, Costantini's contains no such express or inherent teaching, either expressly or inherently.

Because the elements of claim 1 as amended are not taught expressly or inherently by the cited references, Applicants respectfully request the Examiner to recognize the allowability of independent claim 1.

With respect to independent claim 2, Applicants have amended to recite that the wait time audio indicator comprises an audible signal having an audible characteristic that varies as a function of the expected wait time wherein an instantaneous value of the characteristic is indicative of the expected wait time. Applicants submit that Costantini does not disclose expressly or inherently such a feature.

The amended claim language recites a time varying characteristic of the audible signal that is itself indicative of the remaining wait time whereas, as stated above, Costantini is concerned with the details of determining the expected wait time as opposed to the manner of conveying the expected wait time to a caller.

Similarly, new claims 20 and 21 recite additional patentable elements that further distinguish Costantini. Claim 20 recites that the audio signal is a non-speech signal while claim 21 recites that the time-varying parameter that is indicative of the expected wait time varies substantially continuously as shown, for example, in FIG. 3. Costantini teaches neither of these elements.

Because the elements of claim 2 as amended are not taught expressly or inherently by the cited references, Applicants respectfully request the Examiner to recognize the allowability of independent claim 2 and its dependent claims, which were also rejected as being anticipated by Costantini.

Finally, with respect to independent claim 15, Applicants have amended to recite a wait time audio generator that generates an audio signal having a substantially continuously audible characteristic that varies during the hold time. Applicants submit that Costantini does not disclose expressly or inherently such a feature.

The amended claim recites a time varying characteristic of the audible signal, where the value of the characteristic indicates the remaining wait time. Costantini, once again, describes certain technical details of determining the expected wait time and not the manner of conveying the expected wait time to a caller.

Because the elements of claim 15 as amended are not taught expressly or inherently by the cited references, Applicants respectfully request the Examiner to recognize the allowability of independent claim 15 and its dependent claims, which were also rejected as being anticipated by Costantini.

CONCLUSION

Applicants have made an effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of and favorable action on the pending claims.

Applicants have submitted payment for fees in the form of a deposit account authorization or a check, however; the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2680.

Respectfully submitted,
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